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7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 THERESA BROOKE, a married woman
11 dealing with her sole and separate claim,

12 Plaintiff,

13 vs.

14 SCALZO FAMILY PARTNERSHIP LP, a
15 California limited partnership,

16 Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

17 Plaintiff alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Scalzo Family Partnership LP, owns and/or operates and does
25 business as the hotel Park Vue Inn located at 1570 South Harbor Boulevard, Anaheim,
26 California 92802. Defendant's hotel is a public accommodation pursuant to 42 U.S.C. §
27 12181(7)(A), which offers public lodging services. On information and belief,
28 Defendant's hotel was built or renovated after March 15, 2012.

JURISDICTION

3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42 U.S.C. § 12188.

4. Plaintiff's claims asserted herein arose in this judicial district and Defendant does substantial business in this judicial district.

5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to decline jurisdiction.

ALLEGATIONS

7. Plaintiff alleges that Defendant's hotel does not have a compliant access aisle at the passenger loading zone adjacent to the hotel lobby in violation of Sections 209 and 503 of the 2010 Standards. An access aisle has specific requirements to be compliant with the Standards: It must be (1) 60 inches wide and at least 20 feet long, (2) it must have an accessible route adjoining it, and (3) it cannot be within a vehicular way. Section 503.3.

8. She further alleges that Defendant's hotel does not comply with Section 208.3.1 because the disabled parking is not the shortest possible route to the building entrance.

9. The requirement for an access aisle at a passenger loading zone is immensely important for a person in a wheelchair such as Plaintiff, as it provides safe access to the entry of the hotel and deters others from placing encumbrances or obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for pedestrians. Absence of an access aisle where required creates dangerous conditions for a person in a wheelchair such as Plaintiff.

1 10. The requirement for disabled parking being shortest distance possible to
2 the building entrance relates to Plaintiff's disability of being in a wheelchair.

3 11. Plaintiff formerly worked in the hospitality industry. She is an avid
4 traveler across California for purposes of leisure travel and to "test" whether various
5 hotels comply with disability access laws, doing so at least once per month. Testing is
6 encouraged by the Ninth Circuit.

7 12. In late April 2024, Plaintiff personally visited Defendant's hotel, which
8 has a parking lot and a passenger loading zone. Defendant's hotel has a passenger
9 loading zone because pickup and dropoff occurs there and it is located directly outside
10 of the lobby entrance. There are also design features showing an intent for utilization as
11 a passenger loading zone. According to the U.S. Access Board Technical Guidelines on
12 Passenger Loading Zones, passenger loading zones are so common at hotels that even it
13 recognizes "many hotel entrances" have the design features indicating an intent to
14 utilize as PLZs.

15 13. While at Defendant's hotel, she discovered that Defendant's hotel has a
16 barrier to entry to the lobby, which is that the passenger loading zone does not have an
17 access aisle compliant with Section 503.3; there also is no curb cutout in the curb
18 leading to the entry of the lobby, which also violates Section 503. It is an absolute
19 requirement to have an access aisle and curb cutout at a passenger loading zone
20 pursuant to Sections 209 and 503. The requirement of an access aisle at a passenger
21 loading zone relates to Plaintiff's disability of not having one leg and being forced to
22 use a wheelchair because access aisles are required so persons in a wheelchair can
23 maneuver without threat of danger from other vehicles and without other encumbrances
24 obstructing their pathway. The lobby, therefore, is inaccessible to Plaintiff by way of
25 the passenger loading zone because there is no access aisle.

26 14. Plaintiff also discovered a second barrier. Unable to access the Hotel from
27 the passenger loading zone due to the lack of the required access aisle, Plaintiff sought
28 to park in the disabled parking spot. However, the disabled parking was far from the

1 Hotel entrance and not the shortest distance to the building entrance. Instead, several
2 non-disabled spots were much closer to the building entrance. Having a parking spot the
3 shortest possible route to the building entrance allows “full and equal” access for
4 Plaintiff in a wheelchair because it takes her longer to move about than a person that is
5 able to walk.

6 15. Plaintiff gained actual and personal knowledge of a barrier while visiting
7 Defendant’s hotel (no access aisle at passenger loading zone and disabled parking not
8 shortest distance to entrance), and as a result, she was deterred from entering the hotel
9 both from the barrier and due to the lack of equality.

10 16. Plaintiff has certain plans of returning and staying at the Hotel in October
11 2024 during one of her many trips across California and especially Los Angeles and
12 Orange County areas, but if she arrives then and Defendant has not remediated, she will
13 remain deterred and will not enter the Hotel.

14 17. It is readily achievable and inexpensive to modify the hotel to provide an
15 access aisle and move a parking spot closer to the building entrance, which involves
16 painting and measuring tools.

17 18. Without injunctive relief, Plaintiff and others will continue to be unable to
18 independently use Defendant’s hotel in violation of her rights under the ADA.

19 **FIRST CAUSE OF ACTION**

20 19. Plaintiff incorporates all allegations heretofore set forth.

21 20. Defendant has discriminated against Plaintiff and others in that it has
22 failed to make its public lodging services fully accessible to, and independently usable
23 by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and §
24 12182(b)(2)(iv) and the 2010 Standards, as described above.

25 21. Defendant has discriminated against Plaintiff in that it has failed to
26 remove architectural barriers to make its lodging services fully accessible to, and
27 independently usable by individuals who are disabled in violation of 42 U.S.C.
28

1 §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the
2 2010 Standards would neither fundamentally alter the nature of Defendant's lodging
3 services nor result in an undue burden to Defendant.

4 22. In violation of the 2010 Standards, Defendant's hotel passenger loading
5 zone does not have a disability access aisle compliant with Section 503.3 of the
6 Standards.

7 23. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards,
8 as described above, is readily achievable by the Defendant. *Id.* Readily achievable
9 means that providing access is easily accomplishable without significant difficulty or
10 expense.

11 24. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right
12 to declaratory and injunctive relief, as well as costs and attorneys' fees.

13 25. Without the requested injunctive relief, Defendant's non-compliance with
14 the ADA's requirements that its passenger loading zone be fully accessible to, and
15 independently useable by, disabled people is likely to recur.

16 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 17 a. Declaratory Judgment that at the commencement of this action Defendant
18 was in violation of the specific requirements of Title III of the ADA
19 described above, and the relevant implementing regulations of the ADA;
20 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
21 36.504(a) which directs Defendant to take all steps necessary to bring its
22 passenger loading zone into full compliance with the requirements set
23 forth in the ADA;
24 c. Payment of costs and attorney's fees;
25 d. Provision of whatever other relief the Court deems just, equitable and
26 appropriate.

26 **SECOND CAUSE OF ACTION**

27 26. Plaintiff incorporates all allegations heretofore set forth.
28

1 27. Defendant has discriminated against Plaintiff and others in that it has
2 failed to make its public lodging services fully accessible to, and independently usable
3 by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and §
4 12182(b)(2)(iv) and the 2010 Standards, as described above.

5 28. Defendant has discriminated against Plaintiff in that it has failed to
6 remove architectural barriers to make its lodging services fully accessible to, and
7 independently usable by individuals who are disabled in violation of 42 U.S.C.
8 §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the
9 2010 Standards would neither fundamentally alter the nature of Defendant's lodging
10 services nor result in an undue burden to Defendant.

11 29. In violation of the 2010 Standards, Defendant's Hotel parking lot does not
12 comply with Section 208.3 of the Standards, as described above.

13 30. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards,
14 as described above, is readily achievable by the Defendant. *Id.* Readily achievable
15 means that providing access is easily accomplishable without significant difficulty or
16 expense.

17 31. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right
18 to declaratory and injunctive relief, as well as costs and attorneys' fees.

19 32. Without the requested injunctive relief, Defendant's non-compliance with
20 the ADA's requirements that its parking lot be fully accessible to, and independently
21 useable by, disabled people is likely to recur.

22 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 23 a. Declaratory Judgment that at the commencement of this action Defendant
24 was in violation of the specific requirements of Title III of the ADA
25 described above, and the relevant implementing regulations of the ADA;
- 26 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
27 36.504(a) which directs Defendant to take all steps necessary to bring its
28 parking lot into full compliance with the requirements set forth in the
ADA;

1 c. Payment of costs and attorney's fees;

2 d. Provision of whatever other relief the Court deems just, equitable and
3 appropriate.

4 **THIRD CAUSE OF ACTION**

5 33. Plaintiff realleges all allegations heretofore set forth.

6 34. Defendant has violated the Unruh by denying Plaintiff equal access to its
7 public accommodation on the basis of her disability as outlined above.

8 35. Unruh provides for declaratory and monetary relief to "aggrieved
9 persons" who suffer from discrimination on the basis of their disability.

10 36. Plaintiff has been damaged by the Defendant's non-compliance with
11 Unruh.

12 37. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other
13 relief as the Court considers appropriate, including monetary damages in an amount of
14 \$4,000.00, and not more.

15 38. Pursuant to Unruh, Plaintiff is entitled to attorney's fees and costs in an
16 amount to be proven at trial.

17 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

18 a. Declaratory Judgment that at the commencement of this action Defendant
19 was in violation of the specific requirements of Unruh; and

20 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
21 36.504(a) which directs Defendant to take all steps necessary to bring its
22 passenger loading zone and parking lot into full compliance with the
requirements set forth in the ADA;

23 c. Payment of costs and attorney's fees;

24 d. Damages in the amount of \$8,000.00; and

25 e. Provision of whatever other relief the Court deems just, equitable and
26 appropriate.

27 **DEMAND FOR JURY TRIAL**

28 Plaintiff hereby demands a jury trial on issues triable by a jury.

1
2 RESPECTFULLY SUBMITTED this 2d day of May, 2024.

3 /s/ P. Kristofer Strojnik

4 P. Kristofer Strojnik (242728)

5 Attorneys for Plaintiff

6 **VERIFICATION**

7 I declare under penalty of perjury that the foregoing is true and correct.

8 DATED this 2d day of May, 2024.

9
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11
12
13 Theresa Marie Brooke